

REMARKS

Responsive to the restriction requirement, Applicants provisionally elect Group I, drawn to claims 1-32, 37-45 and 69, drawn to a controlled-release tolperisone composition, with traverse.

The present application is a National Stage Application of PCT/EP05/02379. Pursuant to 37 CFR 1.499, unity of the invention is considered for a National Stage Application, as described by 37 CFR 1.475.

A determination of the lack of unity of invention is possible only when the claims of different inventions lack a "special technical feature" relative to one another.

PCT Rule 13.1 states that the international application can relate to a group of inventions so linked as to form a single general inventive concept.

According to PCT Rule 13.2, these "special technical features" are those features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. Thus, absent any showing of the "special technical feature" in a prior art reference, no determination of lack of unity can properly be made.

In the instant case, the Official Action cites U.S. Pre-Grant Publication No. 2003/0232809 to TERASHITA et al. (TERASHITA). Applicant respectfully submits that, at the very least, inventions I and II are not distinct in view of TERASHITA.

TERASHITA discloses a formulation containing tolperisone hydrochloride as the active ingredient whereby the formation shows sustained release of the active ingredient. However, TERASHITA is silent about any stereo selective disposition of the active ingredient, namely tolperisone. The stereo selective disposition of tolperisone in the blood plasma of a subject which had been administered is, however, the special technical feature which both of inventions I and II have in common.

Therefore, Applicant respectfully submits that claims 1-45 and 69, at the very least, meet the unity requirement and are so linked as to form a single general inventive concept under PCT Rule 13. A favorable action on the merits of these claims is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Robert A. Madsen/
Robert A. Madsen, Reg. No. 58,543
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

RAM/fb